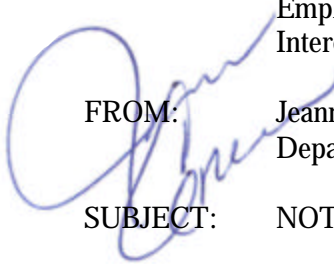




**DEPARTMENT OF PERSONNEL**  
**209 East Musser Street, Room 101**  
**Carson City, Nevada 89701-4204**  
**(775) 684-0150**  
**<http://dop.nv.gov>**

**MEMO PERD #32/05**  
August 12, 2005

TO: Personnel Commission Members  
Department Directors  
Division Administrators  
Agency Personnel Liaisons  
Agency Personnel Representatives  
Designees for Rules Distribution  
Employee Representatives  
Interested Parties

FROM:  Jeanne Greene, Director  
Department of Personnel

SUBJECT: NOTICE OF WORKSHOP AND HEARING - Amendments to NAC 284

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The regulation changes included with this memorandum are being proposed for permanent adoption at the September 23, 2005, Personnel Commission meeting. This meeting will be held at 9:00 a.m. in Carson City at the Legislative Building, 401 South Carson Street, Room 4100. A videoconference link will also be available in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412.

In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 8:30 a.m. on August 29, 2005, at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada and via videoconference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4412, Las Vegas, Nevada. An informational note precedes each regulation which explains the nature and purpose of the proposed change to the regulation.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* and *Notice of Hearing* along with the *text of the proposed regulations* or otherwise notify your employees.

JG:sq



**DEPARTMENT OF PERSONNEL**

209 E. Musser Street, Room 101  
Carson City, Nevada 89701-4204  
(775) 684-0150  
[www.state.nv.us/personnel/](http://www.state.nv.us/personnel/)

**NOTICE OF WORKSHOP  
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS AND  
NOTICE OF HEARING  
FOR THE AMENDMENT OF  
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

**Workshop Notice:** The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the adoption and amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

**A workshop has been set for 8:30 a.m. on August 29, 2005,** at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada and via videoconference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**Action – Temporary Regulations Previously Approved by the Commission  
Proposed for Permanent Adoption**

Lack of promotional candidates.

“Entry level” defined.

“Journey level” defined.

Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.

Differential rate of pay for qualifying shift.

Reimbursement or prepayment for training or education.

Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.

Breaks in continuous service.

Statement of grievance: Contents; time to file.

Appeal of grievance to higher level

Unlawful discrimination.

Confidential records.

**New and Revised Regulations Proposed for Permanent Adoption**

“Trainee level” defined.

Extension of time to file a grievance

Determining type of recruitment.

Reemployment lists; certification of waiver of lists.

Promotional lists: Use; order of names.

“Grievance” defined.

Presentation of grievance to head of division.

Filing of grievance with administrator.

Access to confidential records.

**NAC REGULATION**

New Section

NAC 284.063

NAC 284.069

NAC 284.182

NAC 284.210

NAC 284.490

NAC 284.5405

NAC 284.598

NAC 284.678

NAC 284.682

NAC 284.696

NAC 284.718

New Section

New Section

NAC 284.295

NAC 284.360

NAC 284.367

NAC 284.658

NAC 284.686

NAC 284.690

NAC 284.726

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

**Hearing Notice: The Personnel Commission will hold a public hearing at 9:00 a.m. on September 23, 2005,** in Carson City at the Legislative Building, 401 South Carson Street, Room 4100. A videoconference link will also be available in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and the purpose of the proposed regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Shelley Blotter, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

**Written submissions must be received by the Department of Personnel on or before September 6, 2005.** A copy of this notice and the regulations to be amended will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted or amended will be available at the Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code that is proposed for amendment. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principle reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

**CARSON CITY**

Blasdel Building, 209 East Musser Street  
Nevada State Library and Archives, 100 Stewart St.  
Capitol Building, Main Floor  
Legislative Building, 401 South Carson St.

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

**ALL STATE AGENCIES  
ALL NEVADA COUNTY PUBLIC LIBRARIES**

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**NOTE:** *We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at (775) 684-0110, no later than five working days prior to the meeting.*

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**Action – Temporary Regulations Previously Approved by the  
Commission Proposed for Permanent Adoption**

**Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows :**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on March 25, 2005, describes when a class may be defined as having a lack of promotional candidates.

**NEW SECTION: “Lack of promotional candidates”**

*For the purposes of NAC 284.295, 284.360 and 284.367, a class may be designated in the classification plan as class for which applicants for promotion are not normally available if the class has historically had less than five applicants for promotion available from within the State service.*

**Sec. 2. NAC 284.063 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on March 25, 2005, allows additional classes to be defined as “entry level”.

**NAC 284.063 “Entry level” defined. (NRS 284.065)** “Entry level” means ~~[the lowest class within a class series. Where a trainee level exists the]~~ *a class in which supervision is not a required duty or responsibility of the positions allocated to the class. The* term includes ~~[both the]~~ *any* trainee ~~[and the next higher]~~ *level and the journey* level.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84)

**Sec. 3. NAC 284.069 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on March 25, 2005, aligns the definition of “Journey level” with current practice.

**NAC 284.069 “Journey level” defined. (NRS 284.065)** “Journey level” means the level of performance within an occupational specialty that requires ~~[independent action, analysis, and interpretation.]~~ *a degree of knowledge and proficiency sufficient to perform work independently with little or no additional training.*

(Added to NAC by Dep’t of Personnel, eff. 10-26-84)

**Sec. 4. NAC 284.182 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes the method used for adjusting an employee's pay progression date and clarifies the current regulation. Adjustments will be made to a pay progression date only in full day increments, and the adjustment will be made on a calendar day basis rather than a workday basis.

**NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)**

1. An employee receives a new pay progression date if he is:
  - (a) Promoted to a position that results in an increase of two grades or more; or
  - (b) Reinstated.
2. An employee ~~[retains his pay progression date if he]~~ **who** is:
  - (a) Promoted to a position that results in an increase of one grade;
  - (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;
  - (c) Transferred to a position without receiving an increase in grade;
  - (d) Reappointed to a position at a grade that he formerly held;
  - (e) Reemployed and has remained continuously employed; or
  - (f) Demoted~~[-]~~

*retains the pay progression date he held before the action described in paragraphs (a) to (f), inclusive, occurred.*
3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.
4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.
5. Except as otherwise provided in this subsection ~~[ ]~~ **and subsection 6**, an employee's pay progression date must be adjusted:
  - (a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or
  - (b) On a day-for-day basis for the amount of time ~~[that he was unemployed if]~~ the employee:
    - (1) ~~[Is reemployed following a separation]~~ **Was separated** from State service **if the employee is reemployed** within 1 year after the date on which he was laid off or received a seasonal separation.
    - (2) ~~[Is]~~ **Was separated from State service if the employee is** a person with a permanent disability arising from a disability related to work who is reemployed ~~[following a separation from state service]~~ within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) ~~[Is]:~~ ***Was on leave without pay, or on catastrophic leave, if the employee is:***

(I) A nonexempt employee ~~[who is on]~~ ***and the*** leave without pay ~~[, or on]~~ ***or*** catastrophic leave ~~[,]~~ ***was*** in excess of 240 hours; or

(II) An exempt classified employee ~~[who is on]~~ ***and the*** leave without pay ~~[, or on]~~ ***or*** catastrophic leave ~~[,]~~ ***was*** in excess of 30 working days, in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

6. ***If the number of total hours of leave without pay or catastrophic leave of a nonexempt employee that exceed 240 hours is less than one day of full-time equivalent service for the pay class designation of the employee, an adjustment will not be made for those hours.***

7. ***If an employee is on leave without pay, or on catastrophic leave, on his pay progression date, any adjustment to his pay progression date will be made after he returns to work.***

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 5-27-86; 8-22-86; 4-19-88; 7-21-89; 10-18-89; 3-27-92; 7-6-92; 9-16-92; 11-16-95; 3-1-96; 10-27-97; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm’n by R182-03, 1-27-2004)

**Sec. 5. NAC 284.210 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes payment of shift differential. The change would allow employees who work a qualifying shift, and who are only in paid status for a portion of their shift, to be paid shift differential for the portion of their shift they are in paid status. Additionally, the change would provide shift differential to employees whose 8-hour shift is reduced to 7 hours due to daylight savings time.

**NAC 284.210 Differential rate of pay for qualifying shift.** (NRS 284.065, 284.155, 284.175)

1. As used in this section:

(a) “Differential rate of pay” means an adjustment in pay equivalent to an additional 5 percent of an employee’s normal rate of pay.

(b) “Qualifying shift” means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. ***The term includes without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.***

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

- (a) A nonexempt employee in the classified service who works:
    - (1) A qualifying shift; or
    - (2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.
  - (b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.
  - 3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.
  - 4. *If a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he is in paid status.*
- [4.] 5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.
- [Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002)

**Sec. 6. NAC 284.490 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, clarifies that the repayment of wages owed because of failure to successfully complete training or termination prior to 1 year following the training is the responsibility of the employee.

**NAC 284.490 Reimbursement or prepayment for training or education. (NRS 284.343)**

- 1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:
    - (a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or
    - (b) The employing agency may elect to prepay the cost of the training or education.
  - 2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:
    - (a) The employee fails to complete the training successfully; or
    - (b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.
- Any repayment from wages owed *by the employee* ~~to the employing agency~~ must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.



3. For the purposes of this section, “successful completion of training and education” means:
  - (a) Receiving a grade of C or better;
  - (b) Receiving a passing grade if the students are designated only as passing or failing the course;
  - (c) Receiving a certificate of completion; or
  - (d) Receiving other evidence of completion as predetermined by the appointing authority.

[Personnel Div., Rule X § D, eff. 1-18-82]—(NAC A by Dep’t of Personnel, 10-26-84; R082-00, 8-2-2000)

**Sec. 7. NAC 284.5405 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, clarifies in subsections two and three the current practice used when crediting annual leave.

The name of the University System has been revised to reflect the name change as provided in AB 527 of the 2005 Legislative Session.

**NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.** (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.
2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.
3. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.
4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.
5. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.
  7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.
  8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.
  9. If a nonclassified employee, an unclassified employee of the ~~[University and Community College System of Nevada,]~~ ***Nevada System of Higher Education*** or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, ~~[University,]~~ ***Nevada System of Higher Education*** or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.
- (Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003)

**Sec. 8. NAC 284.598 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes the word "rehired" to "reemployed" which is the appropriate term related to layoffs.

**NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155)** The following are not breaks in continuous service:

1. Authorized military leave for active service if the person is reemployed within 90 calendar days after an honorable discharge from military service.
2. Separation because of layoff if a former employee is ~~[rehired]~~ ***reemployed*** within 1 year after the date he was laid off.
3. Reemployment of a seasonal employee within 1 year after the end of the previous seasonal appointment.
4. Separation because an employee sustained a permanent disability arising from a disability related to work, if the former employee was reemployed not later than 1

year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

[Personnel Div., Rule VII § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 8-26-83; 4-19-88; 3-1-96)

**Sec. 9. NAC 284.678 is hereby amended to read as follows:**

**Explanation of Proposed Change:** A new section is proposed regarding “Extension of time to file a grievance”. This amendment, proposed by the Legislative Council Bureau, adds references to a new section regarding “Extension of time to file grievances”. Wherever the phrase “provided in section 1” is used in this section, it is a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption.

**NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in subsection 3 [5] *and section 1 of this regulation*, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.
2. If the employee submits a letter, it must include:
  - (a) His name;
  - (b) His most recent date of hire;
  - (c) His position;
  - (d) His department, division and section;
  - (e) His mailing address;
  - (f) His business telephone number;
  - (g) A statement that he is filing a formal grievance;
  - (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
  - (i) A concise statement of his grievance;
  - (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
  - (k) A proposed solution of his grievance;
  - (l) His signature; and
  - (m) The date he signed the statement.
3. [H] *Except as otherwise provided in section 1 of this regulation, if* a grievance relates to a decision of a reviewing officer about a performance evaluation, an

employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. ~~[H]~~ ***Except as otherwise provided in section 1 of this regulation, if*** the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:

- (a) The appointing authority; or
- (b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 3-23-94; R197-99, 1-26-2000)

**Sec. 10. NAC 284.682 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, adds references to the new section, "Extension of time to file a grievance". Where the phrase "provided in section 1" is used in this section, it is a reference to Section 1 in the New and Revised Regulations for Permanent Adoption.

**NAC 284.682 Appeal of grievance to higher level. (NRS 284.065, 284.155, 284.384)**

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.
2. ~~[A]~~ ***Except as otherwise provided in section 1 of this regulation, an*** employee has 10 working days to refer his grievance to the next level after:
  - (a) He receives notification of the action; or
  - (b) The passage of 10 working days after his grievance is deemed to have been received,whichever occurs first, at each step in the procedure.

~~[3. The time limit for the grievance procedure may be extended by agreement of the parties.]~~

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98)

**Sec. 11. NAC 284.696 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on December 17, 2004, allows the employee to report alleged discrimination directly to the Department of Personnel. The Legislative Council Bureau has revised the formatting making the section easier to read.

**NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)**

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:
  - (a) Report the alleged discrimination *for investigation* to ~~the~~:
    - (1) *The division of the Department of Personnel that investigates sexual harassment and discrimination;*
    - (2) *The* Attorney General ~~[-the];~~
    - (3) *The* employee's appointing authority~~[-an];~~
    - (4) *An* equal employment opportunity officer ~~[-or-a];~~
    - (5) *A* personnel representative ~~[for corrective action;]~~ *of the department in which the employee is employed; or*
    - (6) *The office charged with enforcing affirmative action within the appropriate university, college or community college which is part of the Nevada System of Higher Education;*
  - (b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or
  - (c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.
2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95)

**Sec. 12. NAC 284.718 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on March 25, 2005, clarifies that interview materials are confidential and access is not allowed.

**NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)**

1. The following types of information, which are maintained by the Department of Personnel or the Personnel office of an agency, are confidential:
  - (a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;
  - (b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;
  - (c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;
  - (d) *Any document which is used by the Department of Personnel or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;*
  - (e) Materials used in examinations, including suggested answers for oral examinations;
  - ~~[(e)]~~ (f) Records and files maintained by the Employee Assistance Program;
  - ~~[(f)]~~ (g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;
  - ~~[(g)]~~ (h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;
  - ~~[(h)]~~ (i) Any information contained on a person's application or relating to his status as an eligible person; and
  - ~~[(i)]~~ (j) Information in the file or record of employment of a current or former employee which relates to his:
    - (1) Performance;
    - (2) Conduct, including any disciplinary actions taken against him;
    - (3) Race, ethnic identity or affiliation, sex, disability or date of birth;
    - (4) Home telephone number; or
    - (5) Social Security number.
2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.
3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:
  - (a) The employee dies; or

- (b) The employee signs a release.
- 4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.
- 5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; R068-03; A by Personnel Comm'n by R182-03, 1-27-2004)

## **Action - New and Revised Regulations Proposed for Permanent Adoption**

**Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:**

**Explanation of Proposed Change:** This amendment was adopted by the Personnel Commission as a temporary regulation on December 17, 2005. Although this language was originally adopted as an amendment to NAC 284.678, the Legislative Council Bureau has recommended the following new section. The amendment allows the appointing authority or his designated representative and the employee to enter into an agreement to extend the time to file a grievance or to enter into an agreement at each step of the grievance process, except when the grievance has been submitted to the Employee Management Committee.

### **NEW SECTION: Extension of time to file grievance.**

- 1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his designated representative.*
- 2. An agreement to an extension of time entered into pursuant to subsection 1 must be:*
  - (a) Made in writing on a form prescribed by the Department of Personnel; and*
  - (b) Signed by:*
    - (1) The employee; and*
    - (2) The appointing authority or his designated representative.*
- 3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.*

**Sec. 2. Chapter 284 of the NAC is hereby amended by adding thereto a new section to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, defines the term "Trainee Level" for use in this Chapter.

### **NEW SECTION: "Trainee Level" defined**

*"Trainee Level" means the level of performance within an occupational specialty at which an employee is in the process of acquiring the knowledge, skills and abilities to perform at the journey level.*



**Sec. 3. NAC 284.295 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, makes changes consistent with Section 1 of the Temporary Regulations Previously Approved by the Commission Proposed for Permanent Adoption, "Lack of promotional candidates."

**NAC 284.295 Determining type of recruitment. (NRS 284.065, 284.155, 284.295)**

1. The Department of Personnel will determine the type of recruitment based on:
  - (a) The number of current or anticipated vacancies;
  - (b) The anticipated number of applicants; and
  - (c) The recommendations or requests of the appointing authority.
2. Except as otherwise provided in subsection 3, a recruitment must be restricted to one or a combination of these groups in the following order of priority:
  - (a) Applicants for promotion from within the division where the vacancy exists.
  - (b) Applicants for promotion from within the department where the vacancy exists.
  - (c) Applicants for promotion from throughout state service.
  - (d) Applicants for appointment from open competition.

If a recruitment includes more than one promotional group, any group with a higher priority must be included and receive preference.
3. Recruitment may be open competitive, or limited to or combined with any one or more of the promotional groups listed in subsection 2 if:
  - (a) The appointing authority certifies in writing to the Department of Personnel that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the recruitment to allow other groups to compete equally; or
  - (b) The class is designated in the classification plan as:
    - (1) Entry level because it is not a normal progression from another class; or
    - (2) ~~[One]~~ **A class** for which applicants for promotion are not normally available.
4. The provisions of this section do not prohibit the Department of Personnel or its designee from conducting a recruitment in anticipation of a vacancy.

(Added to NAC by Dep't of Personnel, eff. 4-20-90; A by Personnel Comm'n by R183-03, 1-27-2004)

**Sec. 4. NAC 284.360 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, makes changes so language is consistent with Section 1 of the Temporary Regulations Previously Approved by the Commission Proposed for Permanent Adoption, "Lack of promotional candidates."

**NAC 284.360 Reemployment lists; certification or waiver of lists. (NRS 284.065, 284.155, 284.250)**

1. Upon receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Department of Personnel will verify the availability of a reemployment list for that class. If a reemployment list is available, the Department of Personnel will provide the reemployment list to the appointing authority. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff pursuant to NAC 284.632.
2. If there is no reemployment list available, the Department of Personnel will, in accordance with subsections 3 and 4, certify the names of eligible person on ranked or unranked lists, or waive the list.
3. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.
4. The Department of Personnel may certify a list of eligible applicants who are not ranked, or may waive the list for:
  - (a) A class that is grade 20 or below;
  - (b) A class designated in the classification plan as entry level; or
  - (c) A class *designated in the classification plan as a class for* which applicants for promotion are not normally available.
5. Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.
6. Only an eligible person who has indicated his willingness to accept the location of the vacancy and the other conditions of employment will be certified.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)

**Sec. 5. NAC 284.367 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, makes changes so language is consistent with the new section on “Lack of promotional candidates.”

**NAC 284.367 Promotional lists: Use; order of names. (NRS 284.065, 284.155, 284.250)**

1. If a promotional list of eligible persons is used to fill a vacancy after the initial recruitment:
    - (a) The recruitment which created the list must have been open to employees of the appointing authority which requests the list; and
    - (b) The order of names must be changed to reflect the priority prescribed by NAC 284.358.
  2. Certification may be made from the names highest on the list after promotional or promotional and open lists for the class are combined if either of the following occurs:
    - (a) The appointing authority certifies in writing to the Department of Personnel that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the certification to allow eligible persons from other groups to be considered on the basis of merit.
    - (b) One or more promotional lists exist for a class which otherwise qualifies for open competition because the class is designated in the classification plan as entry level or ~~[is one]~~ **as a class** which normally has a lack of promotional candidates.
- If lists are combined, the names on the list must be in order of merit.
3. At the request of an appointing authority, one or more promotional lists must be established from an existing open competitive list and certified for a vacancy.
  4. A list of eligible persons established from a recruitment in which the order of priority was changed must not be certified in that order for a new vacancy unless the appointing authority complies with the provisions of paragraph (a) of subsection 2. These names will be used to establish one or more lists as may be appropriate.

(Added to NAC by Dep’t of Personnel, eff. 6-18-86; A 4-20-90)—(Substituted in revision for NAC 284.379)

**Sec. 6. NAC 284.658 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, adds a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, “Extension of time to file a grievance.”

**NAC 284.658 “Grievance” defined. (NRS 284.065, 284.155, 284.384)**

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, **and section 1 of this regulation**, a “grievance” means an act, omission or occurrence which a permanent

employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement. The act, omission or occurrence must be established with factual information including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, ***and section 1 of this regulation***, the term “grievance” does not include any grievance for which a hearing is provided by NRS 284.165, 284.376 or 284.390.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 8-28-85; 10-18-89; 8-1-91; 3-27-92; R082-00, 8-2-2000)

**Sec. 7. NAC 284.686 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, adds a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, “Extension of time to file a grievance”.

**NAC 284.686 Presentation of grievance to head of division. (NRS 284.065, 284.155, 284.384)**

1. [~~§~~] ***Except as otherwise provided in section 1 of this regulation if***, within 10 working days after the employee’s grievance is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not subdivided into divisions, he may forward his request directly to the highest administrator in the department.
2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

[Personnel Div., Rule XV § A subsecs. 2 & 3, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 10-26-84; A by Personnel Comm’n by R065-98, 7-24-98)

**Sec. 8. NAC 284.690 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, adds references to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, “Extension of time to file a grievance.”

**NAC 284.690 Filing of grievance with administrator of department. (NRS 284.065, 284.155, 284.384)**

1. If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* administrator may hold a hearing within 10 working days after receiving the employee’s grievance.
2. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the Committee within 10 working days.
3. In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.
4. Within the established time limitations, *including any extensions to those time limitations obtained pursuant to section 1 of this regulation*, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

[Personnel Div., Rule XV § A subsec. 4, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 10-26-84; 10-18-89; A by Personnel Comm’n by R065-98, 7-24-98)

**Sec. 9. NAC 284.726 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Legislative Council Bureau, updates the reference to NAC 284.718 due to proposed changes in Section 12 of the Temporary Regulations Previously Approved by the Commission Proposed for Permanent Adoption.

**NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)**

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority’s decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the

education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsection 3, access to an employee's file of employment containing any of the items listed in paragraphs ~~[(f) to (i)]~~ (g) to (j) inclusive, of subsection 1 of NAC 284.718 is limited to:
  - (a) The employee.
  - (b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.
  - (c) The appointing authority or a designated representative of the agency by which the employee is employed.
  - (d) The Director or his designated representative.
  - (e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.
  - (f) Persons who are authorized pursuant to any state or federal law or an order of a court.
  - (g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.
  - (h) Persons who are involved in processing records for the transaction of business within and between state agencies
  - (i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.
3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided for in subsection 6, access to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.
4. Except as otherwise provided by specific statute, records maintained by the Employee Assistance Program must not be released without written permission signed by the employee to whom the records pertain.
5. Upon request, the Department of Personnel will provide the personal mailing address of any employee on file with the Department to the State Controller's Office and the Internal Revenue Service.
6. The Director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court. If the Director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003)